

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

DAVID M. CURLEY, SR.,

Plaintiff,

V.

WELLS FARGO & CO., and others,

Defendants.

Case No. 13-cv-03805 NC

ORDER CONVERTING MOTION TO DISMISS INTO MOTION FOR SUMMARY JUDGMENT

Re: Dkt. No. 4

Defendants in this mortgage foreclosure action have moved to dismiss for failure to state a claim upon which relief may be granted, and plaintiff opposed the motion. Dkt. Nos. 4, 27. Defendants submitted disputed factual evidence not properly considered by the Court on a motion to dismiss. *See* Dkt. No. 8, Ex. D; Dkt. No. 28-1, Ex. F. Therefore, the Court now ORDERS that defendants' Motion to Dismiss is CONVERTED into a motion for summary judgment pursuant to Federal Rule of Civil Procedure 12(d).

By December 27, 2013, defendants must file any supplemental materials pertinent to the motion for summary judgment. Plaintiff must file any supplemental materials pertinent to the motion by January 10, 2014.

1 IT IS SO ORDERED.
2 Date: December 13, 2013



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4 Nathanael M. Cousins
United States Magistrate Judge
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